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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/799,298	03/12/2004	Jilene A. Repp	074313-0115	7825
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FOLEY & LARDNER LLP 777 EAST WISCONSIN AVENUE SUITE 3800 MILWAUKEE, WI 53202-5308			EXAMINER SALVATORE, LYNDIA	
			ART UNIT	PAPER NUMBER
			1771	

DATE MAILED: 12/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/799,298

Applicant(s)

REPP ET AL.

Examiner

Lynda M. Salvatore

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-65 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-42 and 44-65 is/are rejected.
- 7) ☐ Claim(s) 43 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 8/9/04 4/7/22/04
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 58 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. Claim 58 is indefinite because it is not clear what Applicant means by the phrase "wherein the adhesive wherein the composite member is needle-punched". For purposes of examination claim 58 will be treated as a needled punched adhesive comprising composite.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-42 and 44-65 are rejected under 35 U.S.C. 103(a) as being obvious over Dreyfus, US 2, 126, 756 in view of Allen et al., US 3,147,490.

The patent issued to Dreyfus teaches an intermediate layer of fabric comprising cotton fibers and a water-soluble adhesive or binder (column 1,50-60, column 2, 1-10, 35-40, 50-column 3, 5 and column 5, 31-40). Said intermediate layer is positioned between two outer layers of fabric (column 2, 45-55). Dreyfus teaches heat and pressure to form the fabric assembly

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(column 4, 55-65). Dreyfus teaches that the fabric composite is suitable for a wide variety of apparel garments such as those used to form collars, cuffs, and hats (column 3, 10-18). With regard to the batting limitation, Dreyfus does not explicitly teach providing a batting, however, Dreyfus teaches an intermediate fabric having any desired construction (column 3, 24-30). Batting is commonly used in the formation of apparel garments to provide padding and/or cushion. For instance, the patent issued to Allen et al., teach a garment with collars having an internal layer of cotton batting (column 2, 65-70).

Therefore, motivated by the desire to form an apparel garment having padding or cushion it would have been obvious to one having ordinary skill in the art at the time the invention was made to form the composite fabric taught by Dreyfus with the cotton batting taught by Allen et al.

With regard to the temporary adhesive and removable by a treatment limitation, it is the position of the Examiner that any water-soluble adhesive is “temporary “ and “removable” when exposed to water.

Dreyfus teaches applying the adhesive to the fabric by padding, spraying or blowing (column 2, 70-column 3, 16). Dreyfus also teaches either coating or impregnating the fabric with adhesive.

With regard to pattern applying the adhesive in selective regions, Dreyfus does not explicitly teach selectively applying the adhesive in a pattern or in regions. However, it is the position of the Examiner that the process of padding as disclosed would result in having patterns or regions of adhesive.

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With regard to the commercial product and instruction limitations, Dreyfus teaches that the intermediate adhesive comprising fabric may be sold as a separate article for sale. As such, it is the position of the Examiner that it would be obvious to provide instructions with an article for sale.

With specific regard to claim 58, the combination of prior art does not teach needle-punching the composite batting material, however, it is commonly known in the art that needling is used to convert loose batts or webs into coherent fabrics. Needle-punching imparts structural integrity to the resulting fabric. It is the position of the Examiner that such features would be desirable in the apparel fields.

Therefore, motivated by the desire to produce a coherent fabric suitable for use it would have been obvious to one having ordinary skill in the art at the time the invention was made to needle punch the batting material provided by the combination of Dreyfus in view of Allen et al.

#### ***Allowable Subject Matter***

6. Claim 43 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The prior art of record does not teach a non-woven water soluble adhesive material. An art search did not produce any substantial art for which to base a rejection and presently there is no motivation to combine references to form an obviousness type rejection.

#### ***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lynda M. Salvatore whose telephone number is 571-272-1482. The examiner can normally be reached on M-F.


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

October 3, 2005

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TERREL MORRIS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1700